

Message Text

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ORIGIN NEA-10

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EB-07 ACDA-07 ORM-02 TRSE-00 SAM-01 SSO-00 NSCE-00

USIE-00 INRE-00 CIAE-00 DODE-00 INR-07 NSAE-00 NSC-05

PA-01 PRS-01 SP-02 SS-15 /088 R

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FM SECSTATE WASHDC

TO AMEMBASSY DACCA IMMEDIATE

C O N F I D E N T I A L STATE 240964

E.O. 11652: GDS

TAGS: SHUM, MASS, BD

SUBJECT: CONGRESSIONAL REQUEST FOR HUMAN RIGHTS INFORMATION

REF: STATE 231122

1. SENATOR HUMPHREY AS CHAIRMAN OF THE FOREIGN ASSISTANCE SUBCOMMITTEE HAS ASKED THE DEPARTMENT TO PROVIDE THE SUBCOMMITTEE STAFF BASIC HUMAN RIGHTS DATA AND INFORMATION ON 17 COUNTRIES, INCLUDING BANGLADESH, ON A CONFIDENTIAL BASIS FOR THE STAFF'S USE IN PREPARING LEGISLATION. IN RESPONSE TO THIS REQUEST, THE SECRETARY HAS AUTHORIZED US TO PROVIDE THE SUBCOMMITTEE WITH THIS BASIC DATA AND INFORMATION USING AS A BASIS THEREFORE UPDATED DRAFTS OF HUMAN RIGHTS OBSERVANCE REPORTS ON THE 17 COUNTRIES WHICH THE DEPARTMENT

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HAS BEEN PREPARING FOR POSSIBLE SUBMISSION EARLY NEXT YEAR

IN ACCORDANCE WITH SECTION 502B(B) OF THE FOREIGN ASSISTANCE ACT OF 1961, AS AMENDED BY THE INTERNATIONAL SECURITY ASSISTANCE AND ARMS EXPORT CONTROL ACT OF 1976. (THE TEXT AND A DISCUSSION OF THE RELEVANT LEGISLATIVE PROVISIONS WERE TRANSMITTED BY REFTEL.) ALL INFORMATION WILL BE PROVIDED ON A CLASSIFIED BASIS, AS SENATOR HUMPHREY REQUESTED AND THE SECRETARY HAS DIRECTED, ALTHOUGH PUBLIC DISCLOSURE CANNOT BE PRECLUDED.

2. WE HAVE INFORMED THE SUBCOMMITTEE THAT THE REQUESTED INFORMATION IS BEING COLLECTED AND PREPARED FOR TURNOVER IN TWO WEEKS, I.E., OCTOBER 8. ACCORDINGLY, CORRECTIONS, UPDATING INFORMATION, COMMENTS AND EMBASSY CLEARANCE ON THE LATEST, PARTIALLY CLEARED, DRAFT OF THE HUMAN RIGHTS OBSERVANCE ON BANGLADESH, TRANSMITTED BELOW, ARE NEEDED URGENTLY, BY COB WASHINGTON SEPTEMBER 30 LATEST, TO ALLOW TIME FOR COMPLETION OF THE CLEARANCE PROCESS, TYPING AND SUBMISSION TO CONGRESS BY THE DEADLINE INDICATED.

3. TEXT OF DRAFT HUMAN RIGHTS REPORT FOR -- BANGLADESH FOLLOWS. QUOTE:

4. I. POLITICAL SITUATION. BANGLADESH IS PRESENTLY IN A STATE OF EMERGENCY AND UNDER MARTIAL LAW. POLITICAL PARTIES AND MOST POLITICAL ACTIVITY ARE BANNED, AND THE GOVERNMENT POSSESSES EXTRAORDINARY POWERS. THE MARTIAL LAW REGIME IS HEADED BY A FORMER CHIEF JUSTICE AS CHIEF MARTIAL LAW ADMINISTRATOR, AND THE THREE HEADS OF THE ARMED FORCES SERVE AS DEPUTY CHIEF MARTIAL LAW ADMINISTRATORS. THE MARTIAL LAW ADMINISTRATION OFFICIALLY CONSIDERS ITSELF A TEMPORARY REGIME WHOSE ROLE IS TO RESTORE STABILITY, LAW AND ORDER, AND EQUAL JUSTICE TO THE COUNTRY AS A PRELUDE TO THE RESTORATION OF REPRESENTATIVE GOVERNMENT. FREE ELECTIONS HAVE BEEN PLEDGED BY THE END OF FEBRUARY 1977.

5. LEGAL SITUATION. THE BANGLADESH CONSTITUTION OF 1972 INCORPORATES A BROAD RANGE OF INTERNATIONALLY RECOGNIZED RIGHTS AND GUARANTEES. BANGLADESH IS ALSO A PARTY TO

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THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND OTHER INTERNATIONAL CONVENTIONS. HOWEVER, THE CITIZENS OF BANGLADESH HAVE BEEN DEPRIVED OF VIRTUALLY ALL GUARANTEE OF THEIR FUNDAMENTAL RIGHTS BY A SERIES OF GOVERNMENT ACTIONS BEGINNING IN 1974. A SPECIAL POWERS ACT, AUGMENTED BY EMERGENCY POWERS RULES, REMOVED MOST CONSTRAINTS ON ARREST AND DETENTION. A CONSTITUTIONAL AMENDMENT ESTABLISHED A ONE-PARTY STATE UNDER A PRESIDENT WITH EXTENSIVE POWERS,

AND REMOVED THE PROTECTION OF FUNDAMENTAL RIGHTS FROM THE JURISDICTION OF THE SUPREME COURT. A STATE OF MARTIAL LAW WAS PROCLAIMED FOR WHICH THERE APPEARED TO BE LITTLE PRECEDENT AND NO CONSTITUTIONAL BASIS. ITS REGULATIONS ARE NOT SUBJECT TO JUDICIAL REVIEW. DECISIONS OF THE MARTIAL LAW COURTS CANNOT BE APPEALED BUT THEY ARE SUBJECT TO ADMINISTRATIVE REVIEW ONLY. IN ADDITION, ATTORNEYS MAY NOT FUNCTION AS ADVOCATES OR PLEAD CASES IN THE MARTIAL LAW COURTS, BUT SERVE ONLY AS ADVISORS TO DEFENDENTS.

6. OBSERVANCE OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS

A. INTEGRITY OF THE PERSON

ARTICLE 3: AT THE PRESENT TIME, MARTIAL LAW AND STATE OF EMERGENCY REGULATIONS PLACE RESTRAINTS ON THE RIGHT TO LIFE, LIBERTY AND SECURITY OF PERSON. NONETHELESS, REPORTS OF SERIOUS ABUSES ARE FEW AND THE REGIME HAS PLEDGED TO RESTORE THESE RIGHTS IN THE NEAR FUTURE.

ARTICLE 5: THERE IS NO EVIDENCE THAT THE PRESENT REGIME ENCOURAGES OR CONDONES TORTURE, DEGRADING THREATMENT OR KILLING. WHILE THE USE OF ROUGH TREATMENT TO EXTRACT INFORMATION FROM PRISONERS IS NOT UNKNOWN IN THE SUBCONTINENT, THE MARTIAL LAW ADMINISTRATION IS ATTEMPTING TO IMPROVE THE DISCIPLINE AND CALIBRE OF THE POLICE FORCE. IN ADDITION, IT IS A CRIME TO COERCE OR INTIMIDATE CITIZENS OR ABUSE POLICE POWERS.

ARTICLE 8: NO REGULATION ISSUED OR ACTION TAKEN BY THE MARTIAL LAW ADMINISTRATION CAN BE CALLED INTO QUESTION OR APPEALED TO OR VOIDED BY ANY COURT OR AUTHORITY. THUS, BANGLADESH CITIZENS ARE EFFECTIVE BARRED FROM OBTAINING CONFIDENTIAL

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REMEDY IN THE COURTS FOR VIOLATIONS TO THE CONSTITUTIONAL RIGHTS.

ARTICLE 9: THE DEGREE TO WHICH THE MARTIAL LAW REGIME EMPLOYS ARBITRARY ARREST OR DETENTION IS AS YET UNKNOWN. THE EVIDENCE GATHERED IN CASES OF SOME POLITICAL FIGURES WHO WERE ARRESTED FOR "PREJUDICIAL ACTIVITIES" WOULD PERHAPS NOT STAND UP IN COURT. THE BANGLADESH GOVERNMENT DOES NOT EMPLOY EXILE AS A PUNISHMENT.

ARTICLE 10: CITIZENS OF BANGLADESH DO NOT PRESENTLY ENJOY THE RIGHT OF A FAIR AND PROMPT HEARING, ALTHOUGH THE MARTIAL LAW REGIME IS MOVING TO CLEAR UP A BACKLOG OF CASES AGAINST DEFENDANTS LONG IN DETENTION.

ARTICLE 11: ALTHOUGH PUBLIC REPORTING ON TRIALS IS LIMITED, THE MARTIAL LAW COURTS DO APPEAR TO BE RENDERING VERDICTS ON THE BASIS OF THE EVIDENCE PRESENTED, RATHER THAN ON POLITICAL CONSIDERATIONS. PROMINENT POLITICIANS AS WELL AS UNKNOWNNS HAVE BEEN ACQUITTED. IN ADDITION, REGULAR COURTS HEARD COMPLAINTS AGAINST THE GOVERNMENT FOR ILLEGAL DETENTION AND SEVERAL OF THE ACCUSED WERE RELEASED.

B. OTHER IMPORTANT FREEDOMS

THE BIHARIS (NON-BENGALI MUSLIMS) WERE LARGELY SEGREGATED FROM THE REMAINDER OF THE SOCIETY DURING THE WAR WITH PAKISTAN AND THEIR PLIGHT LED TO CHARGES OF DISCRIMINATION. FURTHERMORE, UNTIL THERE IS A SETTLEMENT WITH PAKISTAN REGARDING THEIR FUTURE, QUESTIONS CONCERNING NATIONALITY NECESSARILY ENTAIL A LIMITATION ON MOVEMENT. WITH THIS EXCEPTION, CITIZENS OF BANGLADESH MOVE ABOUT FREELY.

THE PRESENT ADMINISTRATION HAS BEGUN RESTORING PROPERTY TO BANGLADESHIS WHO LOST IT PRINCIPALLY FOR POLITICAL REASONS AND PERSONS WHOSE PROPERTY WAS NATIONALIZED ARE BEING COMPENSATED.

BANGLADESHIS ENJOY FREEDOM OF THOUGHT AND RELIGION.

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HAS BEEN CURTAILED BY THE STATE OF EMERGENCY AND THE MARTIAL LAW REGULATIONS. THE REGIME HAS PLEDGED ITS EARLY RESTORATION. THE BAN ON POLITICAL ACTIVITIES RESTRICTS FREEDOM OF ASSEMBLY.

7. OTHER HUMAN RIGHTS REPORTING.

AMNESTY INTERNATIONAL'S 1974-75 ANNUAL REPORT CONTAINED AN ACCOUNT OF A VISIT TO BANGLADESH BY THE AI SECRETARY GENERAL, WHO EXPRESSED CONCERN FOR THOSE DETAINED FOLLOWING THE DECLARATION OF A STATE OF EMERGENCY IN DECEMBER 1974.

FREEDOM HOUSE CHARACTERIZED BANGLADESH AS "NOT FREE".
UNQUOTE. KISSINGER

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